

## R E M A R K S

After careful consideration of the outstanding Office Action, this application has been amended accordingly and favorable reconsideration and allowance of the newly presented claims is herewith respectfully requested.

In the outstanding Office Action the Examiner has withdrawn the allowability of claims 12 and 14 (page 2, paragraph 1) and has rejected many other claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) on the bases of a variety of different U.S. patents including Olmsted (1,717,998); Shriver (4,683,009); Atkins et al. (3,082,777); Yano et al. (4,319,930); Duncan (5,865,903) and Hansen (1,677,443), as specifically set forth in paragraphs 3 through 15 of the outstanding Office Action. By this amendment all claims rejected have been cancelled and the subject matter thereof has not been presented by way of an independent claim. Instead, the undersigned has concentrated efforts upon the Examiner's indicated allowance of claims 26, 30, 33, 36 and 38, as set forth at page 6, paragraph 16 of the outstanding Office Action. A review of the latter claims, all of which are in independent form, evidence the fact that limitations of each claim are identical to the remaining claims and the only difference between the claims is the dependency thereof. Accordingly, though the latter group of dependent claims have been cancelled, the subject matter thereof is hopefully fairly reflected in independent claim 39 absent immaterial limitations. The undersigned states "fairly reflected" because potential Section 112 problems of claim 26 have been avoided in new independent claim 39. As the Examiner will quickly realize in reading claim 26, it's independent claim (claim 18) recites a single "rinse module" and a turret for transporting containers which are rinsed with cleaning fluid absent any

reference to a drying turret, and added thereto by dependent claim 26 is a second washing stage turret and a third circular drying stage turret. There is, of course, no basis in the specification for the three recited turrets as being part of a single "rinse module," and the intent of claim 26 was that of associating a washing stage turret and a drying stage turret of a second rinse module with the washing stage turret of a first rinse module (claim 26). There was no intent on the part of the undersigned in drafting claim 26 to have the same interpreted in a fashion by which the second and third turrets might be misinterpreted as being parts of respective second and third rinse modules. The latter interpretation would make no sense because of the subsequently recited parallel and vertically offset relationship of turret axes relative to each other which finds enablement only with respect to two turrets in the same rinse module. Accordingly, to avoid any misinterpretation of the allowable subject matter of claim 26 or the other identical allowable dependent claims, as well as avoid Section 112 problems, claim 39 specifies/claims "a rinse system" which comprises "first and second rinse modules." Through the first eighteen lines of claim 39 the specifics of the washing stage turret of the first rinse module are claimed, including the axis or rotation thereof disposed at an angle to the horizontal and, earlier unrecited in claims 18 and 26 "means for washing containers with a washing medium during transport thereof by said first rinse module washing stage turret." Thus the first rinse module of the rinse system of claim 39 specifies structure of the wash stage **without** reference to the existence or non-existence of a drying stage. However, beginning at line 18, the second rinse module washing stage and drying stage is recited, together with the specifics thereof including both the inclination of both the axes of the washing and

drying stage turrets, the general parallel relationship therebetween, and the vertical offset relationship of the drying stage turret above the washing stage turret of the second rinse module. Thus, the latter-described and more specifically recited limitations of claim 39 are believed to "fairly" reflect the allowable subject matter of claims 26, 30, 33, 36 and 38 and thus, the formal allowance of claim 39 and each of the claims depending therefrom is believed proper and is herewith respectfully requested.

One further observation is made for the record, namely, the Examiner's comment in paragraph 9 of the outstanding Office Action concerning that which is "deemed to be an obvious extension (duplication) of the teachings of Olmsted." The Examiner utilized the patent to Olmsted (1,717,998) which includes a single turret and observed that claim 24 defines thereover "only in the recitation of the second turret." The Examiner then turned to the patent to Hansen (1,677,443) which "discloses the second turret." From the latter, the Examiner concluded the addition of a second turret would be an alleged "duplication" of the first turret of Olmsted. Apart from being perhaps redundant because of two turrets existing in the Hansen patent, the Examiner has seemingly relied upon a *per se* rule that "duplication" renders claimed subject matter obvious. However, most recently as March 6, 2003 in Ex parte Granneman, 68 USPQ2d 1219, the U.S. Patent and Trademark Office Board of Appeals and Interferences restated that "reliance on *per se* rules of obviousness is legally incorrect and must cease." (Citing In re Ochiai, 71 F.3d 1565, 1572, 37 USPQ2d 1127, 1133 (Fed. Cir. 1995).) The Granneman Board went further stating:

For a *prima facie* case of obviousness to be established, the teachings from the prior art itself must appear to have suggested the claimed subject

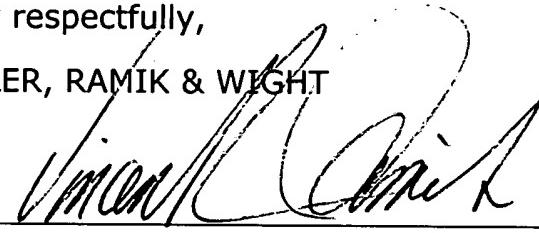
matter to one of ordinary skill in the art.... The mere fact that the prior art could be modified as proposed by the Examiner is not sufficient to establish a *prima facie* case of obviousness.... The Examiner must explain why the prior art would have suggested to one of ordinary skill in the art the desirability of the modification.

The Examiner's alleged explanation for the combination is that the inclusion of a second turret would be "for the purpose of ensuring that the containers are thoroughly treated." With due respect, for the containers to be "thoroughly treated" one need but extend treatment time or elevate washing fluid temperature or both, but duplicating an unspecified turret (washing or drying) will not effect "thoroughly treated" containers. As a matter of fact, once containers are washed and dried, it would appear quite counterproductive and unobvious from the view point of a person skilled in the art to re-wash and re-dry the same containers! If anything, the prior art teaches away from applicants' invention and not toward the same. "A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." In re Gurley, 31 USPQ2d 1130, 1131. In view of the foregoing, the allowance of independent claim 39 and the remaining claims presented herewith is again urged to be proper and would be most appreciated.

In view of the foregoing, the formal allowance of this application at an early date is herewith respectfully requested.

Very respectfully,

DILLER, RAMIK & WIGHT

By: 

Vincent L. Ramik, Reg. 20,663

7345 McWhorter Place; Suite 101  
Annandale, Virginia 22003

(703) 642-5705 - telephone  
(703) 642-2117 - fax